

Section 1. PURPOSE STATEMENT.

The City Council hereby declares the purpose of this Ordinance to be as follows:

In recognition of the adoption by the State Air Resources Board (ARB) of a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December 1982, with levels for the PM10 AAQS selected pursuant to California Code of Regulations Title 17 Section 70200 to protect the health of people who are sensitive to exposure to fine particles; and in recognition that research has indicated that woodsmoke is a significant contributor to PM 10 levels that pose significant health risks, the City of Milpitas desires to lessen the risk to life and property from air pollution from wood burning appliances by adopting regulations which apply to burning combustion emissions. The proposed regulations will significantly reduce the increase in particulate emissions from future installation and construction activities.

Section 2. INDEX.

- II-14.1.00: General Requirements
- II-14.2.00: Applicability
- II-14.3.00: Definitions
- II-14.4.00: Enforcement

Section 3. Title II, Chapter 14, titled “Fireplace/Woodsmoke Pollution” is hereby added to the Milpitas Municipal Code to read as follows:

II-14.1.00 GENERAL REQUIREMENTS.

It shall be unlawful to install a wood burning appliance that is not one of the following: (1) pellet-fueled wood heater, (2) EPA certified wood heater, or (3) masonry fireplace.

II-14.2.00 APPLICABILITY.

.01 New Construction. Only gas fireplaces, pellet-fueled wood heaters, E.P.A. certified wood-burning appliances or masonry fireplaces, may be installed in any new construction.

.02 Existing Structures. Only gas fireplaces, pellet-fueled wood heaters, E.P.A. certified wood-burning appliances or masonry fireplaces, may be added to or replace wood-burning appliances in existing buildings.

.03 Conversions. The conversion of a gas fireplace to burn wood shall constitute the installation of a wood burning appliance and shall be subject to the requirements of this ordinance.

.04 Reconstruction/Repair. A wood burning appliance shall comply with this ordinance if (1) it is reconstructed, (2) additions, alterations, or repairs are made to the appliance that require opening up immediately-adjacent walls, or (3) the residential unit or commercial building in which the appliance is located is renovated, and the renovation includes opening up walls immediately adjacent to the appliance.

II-14.3.00 DEFINITIONS.

II-14.3.01: Bay Area Air Quality Management District. “Bay Area Air Quality Management District” means the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code Section 40200.

II-14.3.02: E.P.A. “E.P.A.” means United States Environmental Protection Agency.

II-14.3.03: E.P.A. certified wood heater. “E.P.A. certified wood heater” means any wood heater that meets the standards in Title 40, Part 60; Subpart AAA, Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.

II-14.3.04: Fireplace. “Fireplace” means any permanently installed masonry or factory-built wood burning appliance, except pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1.

II-14.3.05: Gas fireplace. “Gas fireplace” means any device designed to burn natural gas in a manner that simulates the appearance of a wood burning fireplace.

II-14.3.06: Pellet-fueled wood heater. “Pellet-fueled wood heater” means any wood burning appliance that operates exclusively on wood pellets.

II-14.3.07: Solid fuel. “Solid fuel” means wood or any other non-gaseous or non-liquid fuel.

II-14.3.08: Wood burning appliance. “Wood burning appliance” means fireplace, wood heater, or pellet-fired wood heater or and similar device burning and solid fuel used for aesthetic or space-heating purposes.

II-14.4.00 ENFORCEMENT:

Any person who plans to install a wood burning appliance must submit documentation to the Building Department of the City of Milpitas demonstrating that the appliance is a pellet-fueled wood heater, EPA certified wood heater, or a masonry fireplace. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punishable as provided by law.

Section 4. PUBLICATION AND EFFECTIVE DATE.

Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance

along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

Section 5. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.